

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA.

Plaintiff,

VS.

ROBERT KINCADE,

Defendant

Case No.: 2:15-cr-00071-JAD-GWF

ORDER

Re: Ex Part Motion to Compel (ECF No. 363)

This matter is before the Court on Defendant's Ex Parte Motion to Compel IBEW Credit Union a/k/a Plus Credit Union to Permit Access and Inspection of Crime Scene (ECF No. 363), filed under seal on May 1, 2017.

BACKGROUND AND DISCUSSION

Defendant's counsel wishes to inspect and photograph the publicly available areas in the IBEW Credit Union a/k/a Plus Credit Union, located at 1900 S. Jones Blvd., Las Vegas, Nevada which is the scene of the November 14, 2014 robbery charged in this case. Defendant's counsel represents that the Credit Union's Vice President of Compliance will not permit Defendant to take photographs or measurements without first obtaining a court order. Defendant's counsel does not indicate that the Credit Union has any other objection to the inspection or photographing of the premises.

Defendant's request does not fall under Rule 17 of the Federal Rules of Criminal Rule which governs the issuance of subpoenas. If anything, it is akin to a request for inspection of evidence which is governed by Rule 16(a)(1)(E). That rule, however, only applies to discovery or inspection of items in the Government's possession, custody or control. Assuming that the Credit Union has no objection to

the inspection and photographing, other than it be authorized by court order, the Court will issue such an order. Because this request is made to a non-party, the Court's order is not sealed. Nor is the Credit Union required to maintain any secrecy or confidentiality regarding the inspection and photographing of its premises by Defendant's counsel. If the Credit Union has some objection, otherwise, to the inspection and photographing of the premises, it shall file an objection with the Court within 24 hours of being served with this order. Accordingly,

7 **IT IS HEREBY ORDERED** that Defendant's Ex Parte Motion to Compel IBEW Credit Union
8 a/k/a Plus Credit Union to Permit Access and Inspection of Crime Scene (ECF No. 363) is **granted**. The
9 Credit Union shall permit Defendant's counsel and investigator to inspect and photograph the public
10 areas of the IBEW Credit Union a/k/a Plus Credit Union, located at 1900 S. Jones Blvd., Las Vegas,
11 Nevada within 48 hours of being served with this order, unless the Credit Union has some objection to
12 the inspection, and files an objection with the Court within 24 hours of being served with this Order.

13 DATED this 2nd day of May, 2017.

George Foley Jr.
GEORGE FOLEY, JR.
United States Magistrate Judge